



STATE BOARD OF EQUALIZATION STAFF LEGISLATIVE BILL ANALYSIS

DRAFT

Date Introduced: **02/26/09**

Bill No: **AB 700**

Tax: **Sales and Use**

Author: **Krekorian**

Related Bills:

BILL SUMMARY

This bill would require a transfer of 20% of the state's General Fund sales and use tax revenues at the 4.75% rate derived from taxpayers engaged in certain lines of business into the Creative Industries and Community Economic Revitalization Fund, as specified.

ANALYSIS

CURRENT LAW

Existing law imposes a sales or use tax on the sale or purchase of tangible personal property in this state, unless specifically exempted.

The statewide sales and use tax rate (8.25%) imposed on taxable sales and purchases of tangible personal property is made up of the following components, and the proceeds are allocated in the specific funds identified (additional district taxes are levied among various local jurisdictions and are not reflected in this chart):

Rate	Jurisdiction	R & T Code
4.75% 0.25% <u>1.00%</u> ¹ 6.00%	State (General Fund)	6051, 6201, 6051.3, 6201.3 6051.7, 6201.7
0.25%	State (Fiscal Recovery Fund)	6051.5, 6201.5
0.50%	Local Revenue Fund	6051.2, 6201.2
0.50%	Local Public Safety Fund	§35 Art XIII St. Constitution
1.00%	Local (0.25% County transportation funds 0.75% City and county operations)	7203.1

¹ Effective April 1, 2009 (Ch. 18, AB 3, Third Extraordinary Session, 2009)

PROPOSED LAW

This bill would, among other things, add Section 7101.2 to the Revenue and Taxation Code to require 20% of all revenues, less refunds, derived from the taxes imposed pursuant to Sections 6051 and 6201 and remitted to the Board by taxpayers identified in the Board's records as engaged in those lines of business described in Codes 451100, 453920, and 453998 of the North American Industry Classification System (NAICS), provided that the Board has fully implemented use of that system, to be deposited in the State Treasury to be allocated to the Creative Industries and Community Economic Revitalization Fund for use as specified.

The bill would become effective January 1, 2010.

COMMENTS

1. **Sponsor and Purpose.** This bill is sponsored by the California Arts Advocates. According to the author's office, this bill is intended to restore full funding for the California Arts Council. The bill would provide a stable source of funding for state grants in the long-term, and would offer much-needed help to arts organizations seeking to retain artists and administrators in order to maintain their programming through the economic crisis.
2. **Only the state's General Fund sales and use tax revenues at the 4.75% rate would be transferred under the provisions of this bill.** Although an additional component of the state's General Fund sales and use tax rate of 1.25% applies to taxable sales (which includes the one percent increase beginning April 1, 2009), this bill would only transfer the state sales and use tax revenues derived from the specified establishments at the 4.75% rate. If the author intends to include the entire 6% state General Fund rate, Sections 6051.3 and 6201.3 and 6051.7 and 6201.7 would be the appropriate statutes to reference in the bill (in addition to Sections 6051 and 6201 currently referenced).
3. **What are these classification systems referenced in the bill?** The NAICS is the industry classification system of the United States, developed by the Economic Classification Policy Committee on behalf of the Office of Management and Budget. It is currently used by the United States, Canada and Mexico's federal governments, state agencies and private industries to identify a business' principal activity within the retail, wholesale and service categories.

Over the past few years, the Board has been actively converting its former business classification coding system, which used broad based business codes to categorize and identify a taxpayer's primary business activity, to the NAICS classification system. This conversion to the NAICS coding system will soon be replacing the Board's former classification system, and should be fully implemented by the time this bill is enacted. Therefore, based on the references to the specific codes in the bill, revenues from the following establishments would be transferred in accordance with the measure:

451100 – Sporting goods, hobby, and musical instrument stores

453920 – Art dealers

453998 – All other miscellaneous store retailers (except tobacco stores), including art supply stores, candle shops, flower shops, and a variety of other specialized retail stores.

4. **The bill would not be problematic to administer.** The bill would not cause administrative concerns as currently written. However, it should be noted that the first transfer of funds would occur on or around the six month following the effective date of the bill. This is so, because once enacted, the due date of the first quarterly returns and payments would be April 30, and, once the returns are filed and payments are made, the average processing time necessary to review the return, input the data into our computer system, and identify the funds by specific business codes is around 60 days. Thereafter, transfers would occur quarterly.

COST ESTIMATE

Some minor costs would be incurred in accounting for the revenues to be transferred. These costs are expected to be absorbable.

REVENUE ESTIMATE

BACKGROUND, METHODOLOGY, AND ASSUMPTIONS

For purposes of this estimate, the most recent annual sales and use tax revenue data available is from sales and use tax returns filed for the calendar year 2007. Since the Board's conversion to the NAICS system was not in effect at that time, we are unable to provide accurate figures using the NAICS codes referenced in the bill. However, using the Board's old classification system codes for 2007 return data, the taxable sales for codes 11 and 15 were \$3.2 billion. Using the General Fund rate of 4.75%, the total revenue to the State's General Fund from estimated 2009 taxable sales for these codes would amount to \$134.0 million (\$3,228.5 million x 4.75%= \$153.3 million, less an estimated 7% for decline in taxable sales = \$142.6 million for the year 2008, less an additional estimated 6% decline in taxable sales= \$134.0 million for the year 2009). This bill would transfer 20% of these General Fund tax receipts to the Creative Industries and Community Economic Revitalization Fund in the amount of \$26.8 million (\$134.0 million x 20%).

REVENUE SUMMARY

This bill would transfer approximately \$26.8 million from the State's General Fund to the Creative industries and Community Economic Revitalization Fund for calendar year 2010.

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This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.